REMARKS/ARGUMENTS

Claims 1 through 6 are pending in the application and have been rejected. With this amendment, all claims have been amended in order to further define the invention. No new matter has been added.

New claims 13 and 14 have been added to further define that the composition is free of polysaccharides below 1,000 Daltons as defined in original claim 3 and described in the specification on at least page 2, third full paragraph.

Claims 1 through 6 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In order to overcome the 35 USC §112, second paragraph rejection, all pending claims have been reviewed and have been amended to further define the invention in a clear and non-confusing manner, taking the Examiner's suggestions into account. Removal of the 35 USC §112 second paragraph rejection is respectfully requested.

In the Official Office Action of July 5, 2006, the Examiner evidently has rejected all of the claims as either being anticipated or obvious in view of Chen et al., US Patent 6,123,944. Applicant respectfully notes that the claims are drawn to a composition comprising Epimedium extracts for use in the treatment of prostatic hyperplasia, while Chen et al. does not disclose such use. The treatment of prostatic hyperplasia is summarized by the applicant throughout the specification by the various examples or cases that set forth the procedure, by the data, and by the results. As apparent therefrom, improved results were obtained utilizing the extracts of the present invention as claimed and the same is not taught or suggested by Chen et al.

An important aspect of the present invention is the utilization of molecular weights of polysaccharides of from 1,000 to 700,000 Daltons. Chen does not disclose this molecular weight range that was obtained through the process of removing polysaccharides below 1,000 Daltons by filtering. The extract taught by Chen et al. was not filtered and purified, and it is noted that the content of polysaccharides of the Epimedium extract with molecular weights below 1,000

Daltons is high. Therefore, the content of polysaccharides having molecular weights between 1,000 and 700,000 Daltons as claimed is not identical to the composition of Epimedium extracts taught by Chen et al. In summary, the composition taught by Chen et al. lacks the elements of Applicant's independent claims of containing polysaccharides having a molecular weight between 1,000 and 700,000 Daltons and thus being free of any molecular weight polysaccharide extracts below 1,000 Daltons. Consequently, the claimed composition of Epimedium extracts cannot be anticipated by the reference.

Compared with the referenced extracts, the claimed composition of Epimedium extracts having molecular weights of polysaccharides of from 1,000 to 700,000 Daltons is a distinctive, inventive characteristic, that renders the claimed extract composition different from the Chen et al. reference. The elements of claimed Epimedium extracts have the purpose and characteristic for the use in and treatment of prostatic hyperplasia. Thus, the elements of the claimed extract composition are different than the referenced extracts. Accordingly, the claimed extract composition would have been unobvious to those of ordinary skill in the art within the meaning of 35 USC §103(a).

Claims 1 through 6 have been rejected under 35 USC 103(a) as being unpatentable over Chen et al. and Mitsuhasshi et al., US Patent 4,501,736. Applicant respectfully disagrees.

The combination of Chen et al. and Mitsuhasshi et al. cannot teach or suggest claims 1-6. Neither Chen et al. nor Mitsuhasshi et al. has disclosed the claimed composition of Epimedium extracts and the preparation method thereof such as removing any polysaccharides having a molecular weight below 1,000 Daltons by ultra-filtration and obtaining polysaccharides having a molecular weight of from 1,000 to 700,000 Daltons. Nor is the technical aspect of comprising "flavones and polysaccharides in a ratio of from 2:8 to 8:2 by weight" taught.

The failure to obtain the technical characteristic of molecular weights of polysaccharides of from 1,000 to 700,000 Daltons by the combination of Chen et al. and Mitsuhasshi et al. references is the key factor by which the claimed extracts achieve improved treatment of prostatic hyperplasia.

The claimed method of extraction is not the simple combination of existing technologies, but rather the complete technical solution through experiments and creative work by inventors, that result in molecular weights of polysaccharides of from 1,000 to 700,000 Daltons, and the effective ratios of flavones and polysaccharides that effectively result in the treatment of prostatic hyperplasia.

In summary, one skilled in the art cannot anticipate, nor is it obvious from the teachings of the references that Applicant's invention is obvious. Rather, unexpected results with regard to the treatment of prostatic hyperplasia have been obtained by the claimed composition and methods of the present invention.

Accordingly, a notice of allowance is respectfully requested.

Respectfully submitted,

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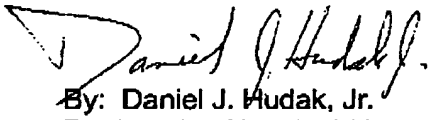

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